

**FILED**

**NOV 26 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE ANGEL PEREZ-FIERRO,

Defendant - Appellant.

No. 07-50109

D.C. No. CR-05-02192-MJL-1

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Southern District of California  
M. James Lorenz, District Judge, Presiding

Submitted November 13, 2007<sup>\*\*</sup>

Before: TROTT, W. FLETCHER and CALLAHAN, Circuit Judges.

Jose Angel Perez-Fierro appeals from his jury-trial conviction for attempted reentry, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Perez-Fierro contends that his conviction was obtained in violation of the prohibition against double jeopardy. We disagree. The record reflects that the district court properly granted defendant's motion for a mistrial after the jury deadlocked. Furthermore, Perez-Fierro has not shown that the prosecutor intentionally provoked him into moving for a mistrial. *See Oregon v. Kennedy*, 456 U.S. 667, 679 (1982).

**AFFIRMED.**